

RECEIVED
CENTRAL FAX CENTER

JUL 08 2008

REMARKS

Status of the claims

Claims 1-9, 11, 13 and 15-24 stand rejected in the application. Claims 1-9, 11, 13 and 15-24 are pending in the application. Claim 1 is currently amended. No new matter is added.

Amendment to the claims

Claims 1 and 19-21 are currently amended to improve the clarity of the invention and to more particularly point out what the applicants want to claim. Claim 1 recites a method of treatment for one or more substrates in an individual, comprising: securing said substrate(s) proximal to a susceptor, wherein said substrate is intact; and applying radiofrequency energy that generates a magnetic field to said substrate(s) or to said susceptor or to a combination thereof to inductively generate heat therein; and affixing said substrate(s) via said heat thereby effecting treatment. Claims 19-21 recite affixing said substrate(s) wherein said substrates from a scaffold, or a lattice structure, and affixing seals a tissue, fills a tissue defect, or bonds tissues together, wherein the affixing is controlled via feedback monitoring. Support for these amendments is found on page 16, lines 8-11, 14-16, and in Figure 1, Figure 2, and 14 of the instant specification. More specifically, Applicants' data demonstrates securing said substrate proximal to a susceptor wherein said substrate is intact, and affixing said substrate(s) under constant monitoring of the process on page 23, lines 4-21, from page 24, line 4 to, page 25, line 4 and from page 25, line 5 to page 26, line 23.

35 U.S.C. §102 rejections

Claims 1-9, 13, and 15-20 stand rejected as anticipated under 35 U.S.C. §102(b) by **Gordon** (USPN 4,889,120). Applicants respectfully traverse this rejection.

The Examiner argues that **Gordon** (the Abstract and col. 2, line 28 through col. 3, line 62) discloses a method of treatment for one or more tissue substrate(s) in an individual, comprising: securing the tissue substrates proximal to a

ferromagnetic metal susceptor; applying radiofrequency energy that generates a magnetic field to said substrate(s) or to said susceptor or a combination thereof to inductively generate heat therein; and fixing said substrate(s) via said heat thereby effecting treatment. Applicants respectfully disagree.

Applicants respectfully submit that **Gordon** teaches a method of creating connections between blood vessels and other biological structures comprising: application of electromagnetic energy to generate heat and alter intracellular particles within the edges of biological structures as well as the edges of biological structures so as to connect the biological structures without harming them. **Gordon** describes the use of artificially introduced particles which react with an applied electromagnetic field to generate heat sufficient to connect the biological structures. **Gordon** teaches the use of electromagnetic field at the fixed frequency of 400 kHz, or treating particles with a laser beam with the wavelength within the spectrum of visible light.

The instant invention, as illustrated in currently amended claim 1, recites a method of treatment for one or more substrates in an individual, comprising: securing said substrate(s) proximal to a susceptor, wherein said substrate is intact; applying radiofrequency energy that generates a magnetic field to said substrate(s) or to said susceptor or to a combination thereof to inductively generate heat therein; and affixing said substrate(s) via said heat thereby effecting treatment.

To anticipate amended independent claim 1 and dependent claims 2-9, 13 and 15-20, **Gordon** must teach every element recited in the instant claims. The Applicants submit that **Gordon** does not teach the method of treatment of one or more substrates in an individual, comprising securing said substrate(s) proximal to a susceptor, wherein said substrate is intact, and applying radiofrequency energy. As well, **Gordon** does not teach the method where said substrate is an implant or a bandage, or it is secured by a surgical fastener, a laminate or a surgical fitting, or by an adherend. **Gordon** does not teach the method where the securing adherend is a protein or a polymer. As discussed *supra* **Gordon** does not teach the claim elements as in the instant claims. Therefore, **Gordon** does not anticipate the instant invention under 35 U.S.C. §102(b). Consequently, in view of the arguments presented herein,

Applicant respectfully requests the standing rejection of claims 1-9, 13 and 15-20 under 35 U.S.C. §102(b) over **Gordon** be withdrawn.

Claims 1-5, and 11 stand rejected under 35 U.S.C. §102(b) as anticipated by **Paulus et al.** (USPN 5,429,583). Applicants respectfully traverse this rejection.

The Examiner argues that **Paulus** (claim 8; Abstract, col. 3, lines 21-57 and col.4, line 29 through col.6, line 59; col. 8, lines 18-45) disclose a method for one or more tissue substrates in an individual, comprising: securing the tissue substrate(s) proximal to a ferromagnetic metal susceptor; applying radiofrequency energy that generates a magnetic field to said substrate(s) or to said susceptor or to a combination thereof to inductively generate heat therein; and fixing said substrate(s) via said heat thereby effecting treatment. Applicants respectfully disagrees.

Applicants respectfully submit that **Paulus et al.** teach the method of thermal cancer treatment comprising: application of oscillating magnetic field to the cobalt-palladium cylinders (col. 4, line 29 through col. 6, line 59) inserted into tumor tissue in the way that such cylinders have to be parallel to the applied electromagnetic field (col. 3, lines 21-57) to generate heat therein to kill cancer cells, where the treatment process is controlled by sensor(s) inserted to the treated tissues to prevent overheat and damage of healthy tissues.

The currently amended claim 1 of the instant invention recites a method of treatment for one or more substrates in an individual, comprising: securing said substrate(s) proximal to a susceptor, wherein said substrate is intact; applying radiofrequency energy that generates a magnetic field to said substrate(s) or to said susceptor or to a combination thereof to inductively generate heat therein; and affixing said substrate(s) via said heat thereby effecting treatment.

To anticipate amended independent claim 1 and dependent claims 2-5 and 11, **Paulus et al.** must teach every element recited in the instant claims. The applicants submit that **Paulus et al.** do not teach the method of treatment of one or more substrates in an individual, comprising securing said substrate(s) proximal to a susceptor, wherein said substrate is intact, and applying radiofrequency energy at the frequency range of about 20 kHz to about 40 GHz constantly and in pulses.

As discussed *supra* **Paulus et al.** do not teach the claim elements as in the instant claims. Therefore **Paulus et al.** do not anticipate the instant invention under 35 U.S.C. §102(b). Consequently, in view of the arguments and claim amendments presented herein, Applicant respectfully requests the standing rejection of claims 1-5 and 11 under 35 U.S.C. §102(b) be withdrawn.

35 U.S.C. §103 rejections

Claims 21–22 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over **Paulus et al.** (USPN 5,429,583) as applied to claim 1 above and further in view of **Dann** (USPN 6,148,236), and further in view of **Edwards** (USPN 6,814,712). Applicants respectfully traverse this rejection.

The Examiner argues that **Paulus et al.** disclose the claimed invention except for monitoring the heat of the susceptor via optical infrared detection, and **Dann** discloses an apparatus and method for treating the prostate with seeds under monitoring the temperature with a temperature sensor inserted in the tissue. The Examiner argues further that **Edwards et al** disclose a prostate heating apparatus and teach one and more temperature sensors positioned along the catheter. Applicants respectfully disagree.

Applicants respectfully submit that **Paulus et al**, **Dann**, and **Edwards** use invasive direct sensing methods of monitoring the heating process.

The currently amended 21–22 and 23-24 of the instant invention recite a method of treatment for one or more substrates in an individual, comprising: controlling the affixing of said substrate(s) via feedback monitoring of a property of said susceptor, said energy or a combination thereof; wherein said property is heat, an electrical property, eddy currents, conductivity, or frequency changes or a combination thereof; wherein heat is monitored via optical detection; and wherein said optical detection is infrared.

To render obvious amended claims 21–22 and 23-24, **Paulus et al**, **Dann**, and **Edwards** must teach enough information to provide a person with a reasonable expectation of producing the invention as claimed. The Applicants submit that **Paulus et al**, and **Dann**, and **Edwards** do not teach the a method of treatment for

one or more substrates in an individual, comprising: controlling the affixing of said substrate(s) via feedback monitoring of a property of said susceptor, said energy or a combination thereof; wherein said property is heat, an electrical property, eddy currents, conductivity, or frequency changes or a combination thereof; wherein heat is monitored via optical detection; and wherein said optical detection is infrared.

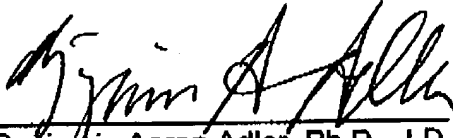
As discussed *supra* Paulus et al., and Dann, and Edwards do not teach the claim elements as in the instant claims and therefore do not render obvious claims 21-22 and 23-24 under 35 U.S.C. §103(a). Consequently, in view of the arguments and claim amendments presented herein, Applicants respectfully request the standing rejection of claims 21-24 under 35 U.S.C. §103(a) be withdrawn.

This is intended to be a complete response to the Final Office Action, mailed March 27, 2008. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned attorney of record for immediate resolution. Applicant encloses a Petition for a One Months Extension of Time. Please charge the \$60 fee to the credit card identified on the enclosed Form PTO-2038. Only in the absence of Form PTO-2038, please debit any applicable fees from Deposit Account No. 07-1185 upon which the undersigned is allowed to draw.

Respectfully submitted,

Date:

July 8, 2008


Benjamin Aaron Adler, Ph.D., J.D.
Registration No. 35,423
Counsel for Applicants

ADLER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071
Tel: (713) 270-5391
Fax: (713) 270-5361
Ben@adlerandassociates.com